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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/563,750

02/20/2007

Matthias Plagmann

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CROWELL & MORING LLP  
INTELLECTUAL PROPERTY GROUP  
P.O. BOX 14300  
WASHINGTON, DC 20044-4300

EXAMINER

LUONG, VINH

ART UNIT

PAPER NUMBER

3682

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/563,750	<b>Applicant(s)</b> PLAGMANN ET AL.	
	<b>Examiner</b> Vinh T. Luong	<b>Art Unit</b> 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 8-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/9/06</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Attachment</u> .                       |

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1. The preliminary amendment and the substitute specification filed on January 9, 2006 have been entered.

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because of the implied phrase "[t]he invention relates to." Correction is required. See MPEP § 608.01(b).

4. The information disclosure statement filed January 9, 2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Applicant stated "[c]opies of documents listed on the attached form PTO-1449 have already been provided by the International Searching Authority, therefore, duplicate copies are not attached hereto." However, the International Searching Authority has not provided these copies. See MPEP 609.03 and 609.04(a).

5. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be

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incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

6. Claim 9 is objected to because of the following informalities: no antecedent basis is seen for the term "it." Appropriate correction is required.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pascal et al. (EP 1 052 562 A2 cited in the specification).

Regarding Claim 8, Pascal teaches a pedal bearing block for receiving a pedal for a motor vehicle, comprising:

a basic body shell 2 including a shell reinforcing element 12, 4 (see Attachment hereinafter "Att.");

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a connecting point 8 (FIGS. 1 and 2) for fastening the pedal bearing block to a front wall of the body shell 2; and

a bearing point 4 for receiving a pedal bearing 6.

Pascal teaches the invention substantially as claimed. Moreover, Pascal explicitly suggests in paragraph [0005]: “a first part of the pedal support 2 is moulded typically from plastic. *It may alternatively be a hybrid construction, for example, a combination of metal and plastic. The first part 2 includes **integral** pedal carriers 4 which have through holes 6 for carrying one or more pivot pins for mounting of one or more control pedal of the vehicle.*” (Emphasis added). As noted, the carrier 4 also has reinforcement ribs (unnumbered, see Att.), thus, the bearing point 6 is *integrally* formed by the reinforcing element 12, 4 and the shell 2 as shown in FIGS. 1 and 2. Hence, Pascal’s hybrid bearing blocks broadly includes the Applicant’s claimed hybrid construction wherein the shell 2 consists of metal and the reinforcing element 12, 4 consists of plastic. In other words, Applicant’s claimed hybrid construction is one embodiment of Pascal’s hybrid bearing blocks.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate Pascal’s body shell as a hybrid construction by selecting, *e.g.*, the shell consisting of metal and the reinforcing element consisting of plastic, as suggested by Pascal. The modification of Pascal’s bearing block by making the shell of metal and the reinforcing element of plastic would not have been uniquely challenging to a person of ordinary skill in the art because it is no more than “the simple substitution of one known element for another or the mere application of a known technique to a piece of prior art ready for the

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improvement." *KSR Int'l. Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007) and it "does no more than yield predictable results." *KSR*, 127 S. Ct. at 1739.

Regarding Claim 9, the shell 2 has an edge (Att.) encircling it in some regions.

Regarding Claims 10 and 11, the reinforcing element 12, 4 has ribs 12, 4.

Regarding Claim 12, the reinforcing element 12, 4 has ribs 4 around the bearing point 4 of the pedal bearing 6.

Regarding Claim 13, the reinforcing element 12, 4 is secured on the shell 2.

Regarding Claims 14 and 15, the reinforcing element 12 substantially envelopes the encircling edge (Att.) of the shell 2.

Regarding Claims 16-20, the reinforcing element 12, 4 has receiving elements 14, 18 for receiving functional elements (article, id. paragraph [0014]).

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Hans (plastic bearing block 4), Baumann (ribs 6-9), and Reese et al. (plastic reinforcement element 5 and metal shell 11, 13).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vinh T Luong/  
Primary Examiner, Art Unit 3682